

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

UNITED STATES OF AMERICA and )  
STATE OF INDIANA, )  
 )  
Plaintiffs, ) Case No. 2:14-CV-312-PPS-PRC  
v. ) Judge Phillip P. Simon  
 ) Magistrate Judge Paul R. Cherry  
ATLANTIC RICHFIELD COMPANY and )  
E. I. DU PONT DE NEMOURS AND COMPANY,) )  
 )  
Defendants. )  
 )  
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 )

**UNOPPOSED MOTION OF THE UNITED STATES  
REQUESTING JUDICIAL NOTICE**

Pursuant to Federal Rule of Evidence 201, the United States, acting on behalf of the United States Environmental Protection (“EPA”), respectfully requests this Court to take judicial notice of the eight documents attached as Exhibits 1-8 to this motion, including six EPA agreements, decisions, orders, and statements and two United States Department of Housing and Urban Development (“HUD”) records related to the U.S. Smelter and Lead Refinery, Inc. Superfund Site (“Site”). Specifically, the United States requests judicial notice of the following documents:

Exhibit 1: Administrative Settlement Agreement and Order on Consent for Removal Actions in Zones 2 and 3 of Operable Unit 1 of the U.S. Smelter and Lead Refinery, Inc. Superfund Site (March 16, 2017) (“2017 Z2&3 ASAOC”) (available at <https://semspub.epa.gov/src/document/05/935710>).

Exhibit 2: Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study of Operable Unit 2 of the U.S. Smelter and Lead Refinery, Inc.

Superfund Site (October 4, 2017) (“2017 OU2 RI/FS ASAOC”) (available at <https://semspub.epa.gov/work/05/937081.pdf>).

Exhibit 3: Proposed Explanation of Significant Differences (December 2017) (“Proposed ESD”) (available at <https://semspub.epa.gov/work/05/937113.pdf>).

Exhibit 4: Unilateral Administrative Order for Remedial Action in Zone 2 of Operable Unit 1 of the U.S. Smelter and Lead Refinery, Inc. Superfund Site (Signed December 14, 2017) (“Z2 Soil UAO”) (available at <https://semspub.epa.gov/work/05/937445.pdf>).

Exhibit 5: Unilateral Administrative Order for Interior Removal Actions in Zone 2 and Zone 3 of Operable Unit 1 of the U.S. Smelter and Lead Refinery, Inc. Superfund Site (“Z2&3 Interior UAO”) (Signed December 14, 2017) (available at <https://semspub.epa.gov/work/05/937446.pdf>).

Exhibit 6: News Release, EPA, EPA Enhances Communication with East Chicago Residents (May 31, 2017) (“News Release”) (available at <https://www.epa.gov/newsreleases/epa-enhances-communication-east-chicago-residents>).

Exhibit 7: HUD Environmental Assessment Determination and Compliance Findings for HUD-Assisted Projects: West Calumet – East Chicago Housing Authority (September 22, 2017) (“HUD Environmental Assessment”) (available at <https://semspub.epa.gov/work/05/938042.pdf>).

Exhibit 8: Letter from Jane B. Hornstein, Director, HUD Special Applications Center, to Tia Cauley, Executive Director, Housing Authority of the City of East Chicago (September 20, 2017) (“HUD Approval Letter”) (available at <https://semspub.epa.gov/work/05/938041.pdf>).

Under Federal Rule of Evidence 201(b)(2), this Court may take judicial notice of “a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” This Court “may of course

judicially notice public records and government documents, including those available from reliable sources on the Internet.” *Bova v. U.S. Bank, N.A.*, 446 F. Supp. 2d 926, 931 n.2 (S.D. Ill. 2006).

Exhibits 1-5 and 7-8 are all government documents that are part of the administrative record for the Site, which is available for public viewing at two public libraries in East Chicago, at EPA’s Chicago office, and online at <https://www.epa.gov/uss-lead-superfund-site>. Exhibit 6, the News Release, is not part of the administrative record but can be viewed on EPA’s official webpage. These documents are not offered to establish a disputed fact. Rather, they are offered and relevant because they provide background information that will be helpful in understanding the current state of remediation work taking place at the Site. Put another way, the United States merely requests that this Court take “judicial notice of the indisputable fact that those documents exist [and that] they say what they say . . . .” *Our Country Home Enters v. Comm’r*, 855 F.3d 773, 782 n.1 (7th Cir. 2017). As such, these documents fall squarely within the category of documents for which judicial notice is appropriate.

Counsel for defendants Atlantic Richfield Company and E. I. du Pont de Nemours, as well as for the Applicants seeking to intervene, consent to the relief requested by this motion.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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s/ Annette M. Lang  
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**CERTIFICATE OF SERVICE**

I, Annette M. Lang, electronically filed the foregoing **UNOPPOSED MOTION OF THE UNITED STATES REQUESTING JUDICIAL NOTICE** with the Clerk of Court using the CM/ECF system.

s/ Annette M. Lang  
Annette M. Lang